

CHAPTER-IV STAMP DUTY AND REGISTRATION FEES

4.1 Tax Administration

The overall control on the levy and collection of stamp duty and registration fees rests with the Revenue Department. The Inspector General of Registration (IGR) and Superintendent of Stamps, Gandhinagar is the head of the Department. The IGR is assisted by the Sub-Registrar (at the district and *taluka* level) whereas the Superintendent of Stamps is assisted by the Deputy Collector (Stamp Duty Valuation Organisation) [DC (SDVO)] at the district level.

4.2 Results of Audit

Test check of records in the offices of Sub-Registrars, Deputy Collectors (Stamp Duty Valuation Organisation) and Additional Superintendent of Stamps, Gandhinagar in the State during the year 2016-17 revealed short realisation of stamp duty and registration fees and other irregularities involving ₹ 99.98 crore in 103 cases, which fall under the following categories:

**Table 4.1
Results of Audit**

Sl. No.	Category	No. of cases	Amount (₹ in crore)
1	Audit of “Evaluation and application of Annual Statement of Rates for determination of market value of immovable properties for levy and collection of Government revenue”	1	92.17
2	Misclassification of documents	15	2.51
3	Undervaluation of property	11	0.59
4	Short levy of stamp duty and registration fees	23	4.04
5	Other irregularities	53	0.67
	Total	103	99.98

During the course of the year, the Department accepted and recovered under-assessment and other irregularities of ₹ 30.26 lakh in 12 cases, which were pointed out in audit during 2016-17 and earlier years.

Audit of “Evaluation and application of Annual Statement of Rates for determination of market value of immovable properties for levy and collection of Government revenue” involving ₹ 92.17 crore and a few illustrative audit observations involving ₹ 6.55 crore are mentioned in the succeeding paragraphs.

4.3 Audit of “Evaluation and application of Annual Statement of Rates for determination of market value of immovable properties for levy and collection of Government revenue”

Highlights

Annual Statement of Rates (ASR) had not been revised during the period from April 2012 to March 2017 despite a Government of Gujarat Resolution dated 31 March 2011 that stipulated annual release of Annual Statement of Rates.

(Paragraph 4.3.6)

Revenue in the shape of premium and stamp duty amounting to ₹ 67.33 crore could not be collected due to non-revision of ASR in respect of areas falling under Town Planning Schemes.

(Paragraph 4.3.6.5)

Separate rates for commercial land in urban areas were not provided in the ASR due to which there was undervaluation of land. The survey process was found defective, the rates obtained through general enquiry was not cross verified with the computerised database of the system (*gARVT*).

The survey data was unreliable as there were a number of unauthentic/incomplete survey forms from which the rates of the land used for different purposes were entered into the ASR.

(Paragraph 4.3.7.1 and 4.3.7.4)

During the test check of ASRs alongwith the survey forms, check forms, etc. produced to audit by the 12 DC (SDVO) offices of nine districts, audit found irregularities in data entry of rates in ASRs resulting in short levy of premium of ₹ 4.63 crore in 41 cases.

(Paragraph 4.3.7.5)

Audit noticed inconsistencies and anomalies in the rates adopted in ASR such as rates of agriculture land were shown at par or higher than the rates of open plot/ office/ shops and survey/ final plot numbers of one value zone were repeated under another value zone of the same area.

(Paragraph 4.3.9)

Audit noticed that due to incorrect determination of market value of properties in 28 documents there was short levy of stamp duty of ₹ 1.75 crore. This was due to lack of adherence to the instructions contained in the ASR guidelines for ascertaining the correct market value of properties.

(Paragraph 4.3.11)

4.3.1 Introduction

Various taxes such as stamp duty and registration fees, premium for conversion of land under new and restricted tenure to old tenure¹ for agricultural/ non-agricultural purposes, Income tax on capital gain at the time of sale of immovable assets under Income Tax Act, 1961, etc., levied by the Central/ State Government, are based on the market value of the immovable property (which is the subject matter of the transaction). Hence, Annual Statement of Rates (ASR) showing the market value of the immovable properties at par with prevailing real estate market rates in the State becomes extremely important as it helps in assessing as well as fixing the rate of the property under transaction for securing proper revenue realisation.

Section 2 (na) of the Gujarat Stamp Act, 1958 (GS Act) defines ‘Market Value’ as “the price which a property would have fetched if sold in open market on the date of execution of such instrument”.

In June 1998, the Government introduced ASR of immovable properties in the State. This was a guiding instrument on the basis of which nearest possible market value could be ascertained. The ASR 1998 was revised by the Government with effect from 9 February 2007 by adding 50 *per cent* to the rate of ASR 1998. From 1 April 2007, the rates were again revised by increasing the rates by 5 *per cent* to be effective from 9 February 2007. Meanwhile, the work for the preparation of ASR 2006 was undertaken by the Government and implemented with effect from 1 April 2008. The survey methodology and compilation process adopted, resulted in much litigation in the Hon’ble High Court of Gujarat on the ground that ASR 2006 was not scientifically prepared and contained errors. The records revealed that the Hon’ble High Court had desired that either the existing ASR be modified or the Government may prepare a new ASR based on surveys done by adopting scientific methodology and process. The Department conducted survey activities for preparation of new ASR during January 2009 and June/ July 2009 and submitted (August 2009) the ASR 2009 to Government for approval. However, it was not approved/ implemented by the Government. It ordered the Department to continue with the yearly survey activities. Subsequently, the ASR 2011 was formulated and implemented from 1 April 2011. The ASR was again revised/ modified to address public grievances regarding substantial increase in rates and Revised ASR 2011² was made effective from 18 April 2011. This was in use till date (May 2017). In the ASR, the rates were arranged ward wise/ zone wise for urban properties and *taluka* wise, village wise for rural properties. ASR also provides guidelines to determine the market value of the immovable property.

Government inserted a new Rule 5 in the Gujarat Stamp (Determination of Market Value of Property) Rules, 1984 vide notification dated 21 March 2016

¹ New and restricted tenure means the tenure of occupancy which is non-transferable and impartible without the prior approval of Collector. Old tenure land means land deemed to have been purchased by a tenant on Tiller’s day, 1 April 1957 free from all encumbrances.

² ASR was revised by allowing concession of 50 *per cent* on the differential value between the ASR 2011 (effective during 01 April 2011 to 17 April 2011) and the ASR 2006 (effective during 01 April 2008 to 31 March 2011)

to include the requirements of preparation of Annual Statement of Rates or *jantri* (ASR).

4.3.1.1 Market value and its significance to taxation

Income from stamp duty, registration fees and land revenue forms a major component of tax revenue of the State and is mainly based on market value of the property. Thus volume of these revenues are directly dependent on fixation of market value of property. It also plays a role in levy of Income Tax on gains/ losses from property transactions.

Stamp duty and registration fees (SD and RF) from sale deeds

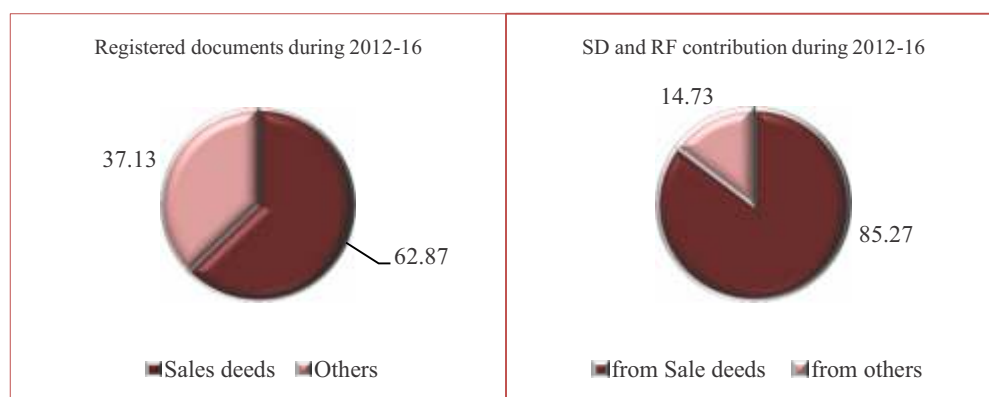
As per Article 20 of Schedule I of the GS Act, in respect of conveyance deeds, stamp duty is required to be levied on the market value of the immovable properties or the consideration amount, whichever is higher. The following table and diagram shows the quantum of sale deeds registered and the percentage of SD and RF realised from sale deeds in the State:

Table 4.2
Stamp duty and registration fees from sale deeds

Year	Total number of registered documents	Number of sale deeds	Percentage of sale deeds to total documents	Total SD and RF (₹ in crore)	SD and RF from sale deeds (₹ in crore)	Percentage of SD and RF from sale deeds to total revenue
2012	8,78,691	6,14,480	69.93	3,881.49	3,433.67	88.46
2013	9,26,125	6,06,933	65.53	4,158.95	3,579.81	86.07
2014	9,94,370	6,10,315	61.38	4,608.68	3,896.14	84.54
2015	10,33,023	6,13,917	59.43	4,864.48	4,082.90	83.93
2016	10,39,256	6,16,963	59.37	5,049.54	4,247.18	84.11
Total	48,71,465	30,62,608	62.87	22,563.14	19,239.64	85.27

(Source: gARVT data furnished by Department)

Chart 4.1
Stamp duty and registration fees from sale deeds



From the above diagram, it could be seen that, on an average, the number of sale deeds constitutes 62.87 per cent of the total registered documents and the revenue realised on account of SD and RF from sale deeds constitutes

85.27 per cent of the total revenue under the category during the last five years.

Premium for conversion of new and restricted tenure land to old tenure for agricultural/non-agricultural purpose

The land holders holding land under new and restricted tenure can convert their land to old tenure subject to payment of the premium price on the market value of the land at the rates prescribed by the Government. The Government vide Resolution dated 04 July 2008 permitted application of ASR rates effective from 01 April 2008 for determination of market value of land for the purpose of levy of premium price.

The contribution of premium to the total land revenue of the State had been significant as shown below:

Table 4.3
Contribution of premium to the total land revenue of the State

Year	Total land revenue as per Finance Accounts	(₹ in crore)	
		Premium collected for conversion of new and restricted tenure land into old tenure for agriculture/ non-agriculture purposes as per Finance Accounts	Percent
2011-12	1,477.18	114.64	7.76
2012-13	2,207.85	231.16	10.47
2013-14	1,727.41	174.45	10.10
2014-15	1,892.65	202.87	10.72
2015-16	2,528.50	612.27	24.21 ³

(Source: Finance Accounts of the relevant year)

From the above, it can be seen that premium price constitutes a significant portion of the land revenue.

As stamp duty, registration fees and premium for conversion of land are based on the market values prescribed in the ASR, it becomes essential that the rates in the ASR should be fairly accurate so that there is no leakage of Government revenue.

4.3.1.2 Mechanism adopted by Department for preparation of ASR 2011

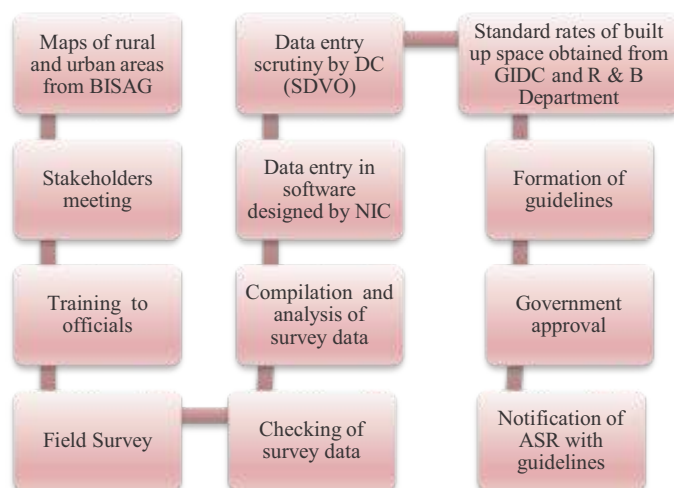
In order to conduct a scientific survey for the preparation of ASR, the Government engaged (January 2011) Bhaskaracharya Institute for Space Application and Geo-Informatics (BISAG) to provide “one sq. km. grid maps” for the whole State. For Urban areas, the growth zones varying from 10,000 sq. mtr. to one sq. km. were made as ‘value zones’. Similarly, for rural areas every sq. km ‘grid zone’ was subsequently divided into three sub-grids. The Department deployed about 10,029 State Government employees to conduct the survey of 7,83,602 grids and 21,878 value zones during January-February

³ The steep rise in premium collected over the last year was due to deposit of premium amount in incorrect Major Head/ Sub-head. The issue has been brought to notice of Department.

2011 and with the approval of Government implemented ASR 2011 that were made effective from 1 April 2011. A chart showing the methodology adopted for conducting the survey and preparation of ASR 2011 is as follows:

Chart 4.2

Methodology adopted for conducting the survey and preparation of ASR



4.3.2 Organisational set-up

The overall control of the levy and collection of stamp duty and registration fees rests with the Revenue Department. The Additional Chief Secretary (Revenue) is the administrative head of the Revenue Department. The Inspector General of Registration (IGR) and Superintendent of Stamps, Gandhinagar are the heads of the Registration and Stamp Duty Department, respectively. The IGR is assisted by the Sub Registrar (at the district and *taluka* level) whereas the Superintendent of Stamps is assisted by the Deputy Collector-Stamp Duty Valuation Organisation; DC (SDVO) at the district level.

4.3.3 Audit objectives

The Audit was conducted with a view to ascertain whether:

- the Department devised a proper mechanism before initiating surveys for determining the market value of land;
- the surveys conducted and reported were in consonance with the provisions of the determination of market value rules applicable in the State;
- adequate monitoring mechanism was in place to assess the correctness of the survey reports;
- the Department took timely corrective actions wherever any discrepancy or ambiguity was noticed or reported in respect of the implemented ASR to safeguard the revenue; and
- the Department had scrupulously followed all the instructions from the Government regarding implementation and application of ASR rates from time to time.

4.3.4 Scope and methodology of audit

Test check of records was conducted in the offices of five Sub Registrars⁴ and 12 DC⁵ (SDVO) of nine⁶ districts for the period from 2011-12 to 2015-16. The records of the Revenue Department and Additional Superintendent of Stamps were also checked. The selection of the offices was based on the statistical sampling techniques.

Audit verified the policy files, survey records and other related records maintained at the Revenue Department, offices of Additional Superintendent of Stamps and Dy. Collectors (SDVO) pertaining to the period from 2011-12 to 2015-16 and also analysed data from *gARVI*. The scrutiny of documents registered in the Sub Registrar offices was taken up to ascertain the level of implementation of the instructions and proper application of ASR rates for levy of stamp duty and registration fees. Besides, the issues relating to the revised ASR 2011, reported in Inspection Reports have also been considered, wherever found appropriate.

Reasons for selection of the topic

Audit selected this topic for audit as it was found during local inspection of offices of the Sub Registrars and the Collectors that the variation between the market value of the property determined as per ASR and the consideration mentioned in the instruments were large. Besides, undervaluation of properties was noticed due to incorrect application of rates and non-compliance of instructions in ASR in a number of cases.

4.3.5 Acknowledgement

Indian Audit and Accounts Department acknowledges the co-operation of the Revenue Department in providing the necessary information and records to Audit. An exit conference with the Principal Secretary (Revenue Department), Superintendent of Stamps and Inspector General of Registration was held on 22 August 2017 wherein the audit observations and the recommendations were discussed. The replies received during the exit conference and at other points of time have been appropriately incorporated in the relevant paragraphs.

⁴ Bopal (Ahmedabad), Athwa (Surat), Gorva (Vadodara), Bapod (Vadodara) and Patan

⁵ DC-I and II Ahmedabad, Godhra, Jamnagar, Mehsana, Patan, I and II Rajkot, II Surat, Surendranagar, I and II Vadodara

⁶ Ahmedabad, Godhra, Jamnagar, Mehsana, Patan, Rajkot, Surat, Surendranagar and Vadodara

Audit Findings

The system and compliance deficiencies noticed during audit are discussed in the following paragraphs:

4.3.6 Non-revision of ASR

As per Government of Gujarat, Revenue Department Resolution dated 31 March 2011, the procedure for revision of ASR needed to be carried out every year and new ASR was required to be released annually. Rule 5 (4) inserted vide notification dated 21 March 2016 prescribes that if the Superintendent of Stamps and Inspector General of Registration Gujarat is not in a position to issue ASR on 1 April in any year due to any administrative difficulties, the rates mentioned in the ASR for the year immediately preceding may be incremented by the Chief Controlling Revenue Authority⁷, in consultation with the Revenue Department, keeping in view the increase in market rates of immovable properties.

Audit observed from scrutiny of records in the offices of the SS as well as the Principal Secretary, Revenue Department that no revised ASR had been implemented during April 2012 to March 2017 in contravention of the Government directives. The Department conducted surveys and submitted the survey results in 2012 for Government's approval but it was not approved. Subsequently, the Department had proposed in the year 2013, 2014, 2015 and 2016 for revision of ASR, but the same also had not been approved by the Government. The reasons for non-approval were not made available to Audit. Further, Rule 5 inserted in March 2016 also provides for revision/ increment of the rates mentioned in the prevailing ASR, however, the Government did not revise/ increment the ASR till the date of audit (April 2017).

Since 2011 significant development activities have taken place in various parts of the State. Introduction/ expansion of Bus Rapid Transit System in Ahmedabad, Rajkot and Surat districts, completion of River Front project and commencement of work for Metro Rail project in Ahmedabad district were some of the noticeable developments which have a direct impact on the upward movement of the market value of the immovable properties. However, due to non-revision of ASR, the Government had foregone an opportunity for revenue realisation which is based on the current market value of immovable properties. The following analysis is indicative of the upward movement in the market value of the properties between 2012 and 2016 which was not reflected in the revised ASR 2011.

4.3.6.1 Audit collected the *gARVI* data of sale deeds registered in the State during the period from 2012 to 2016 from the Department in order to ascertain whether the rates prescribed in the ASR reflects the true market value of the properties in the State. According to the data furnished by the Department, there were 30,62,608 sale deeds registered during the period from 2012 to

⁷ Additional Collector (Appeal) working under SoS

2016. During the analysis of the comparable data⁸ of 25,46,078 sale deeds out of 30,62,608, audit observed that the consideration set forth in 13,69,636 sale deeds (i.e. 53.79 *per cent* of the total sale deeds) were higher than the market value as per ASR. The number of documents with higher consideration than ASR value is given below:

Table 4.4
Documents with higher consideration than ASR value

Year	Total number of comparable sale deeds	Number of documents with higher consideration than ASR value in percentage variation ranging from				
		0 to <10	10 to <50	50 to <100	100 to <500	500 to <1000
2012	5,56,023	1,19,640	57,285	24,464	32,721	5,704
2013	5,26,502	1,20,851	60,369	28,021	44,115	7,779
2014	5,04,582	1,28,111	60,580	30,130	49,207	9,204
2015	4,85,807	1,34,469	60,627	30,283	51,657	10,661
2016	4,73,164	1,38,261	64,858	32,914	55,855	11,870
Total	25,46,078	6,41,332	3,03,719	1,45,812	2,33,555	45,218

It can be seen from the above that:

- Of 13,69,636 documents, in 7,28,304 (53.17 *per cent*) documents, the difference in market value as per ASR and consideration mentioned in the documents was more than 10 *per cent*.
- In 2,33,555 documents, the consideration mentioned in the documents was higher than ASR value by one to five times and in 45,218 documents, the difference was five to 10 times.
- Further, the number of documents with higher consideration than ASR value grew larger with passage of each year, which points to the necessity of yearly revision of ASR.

All these facts indicate that the ASR 2011 did not reflect the true market value of the properties in the State during the period 2012 to 2016 and needs revaluation and revision. Besides, in absence of the updated ASR, the SRs could not ensure the application of correct market value in the 11,76,442 cases where the documents were registered according to the ASR value.

When this was pointed out, the Department stated (September 2017) that the observations, findings, recommendations made in the audit would be considered appropriately for future course of action.

4.3.6.2 During test check of records of Revenue Department, six Collector and two Sub Registrar offices, audit noticed from the Village Forms 6⁹ and 7 & 12¹⁰ (kept in the case files of premium paid for change of tenure of land and the sale deeds) that the actual consideration paid for purchase of the land by

⁸ Comparable data is the data excluding the zero and negative values displayed in the market value and consideration columns of the database. Further, consideration above 1,000 *per cent* or more than 10 times the ASR value is also excluded from the comparable data.

⁹ Record of rights called *Hak Patrak* in Gujarati. It shows the basis for creation of rights of ownership.

¹⁰ This form contains survey numberwise ownership/ rights of the persons and also reflects the cultivator and the crop cultivated.

industries/ individuals had been fairly higher than the market value determined as per revised ASR 2011 for levy of premium. This indicated that the rates in ASR were unrealistic and premium levied with reference to ASR resulted in loss of revenue to the Government.

Table 4.5
Loss of revenue due to unrealistic *jantri* rates

(₹ in crore)							
Sl. No.	Name of office	No. of cases Collector's Order period	Period of registered document	Gap in months/ days between Order and registered document	Market value of property as per ASR Consideration received for sale of property	Premium levied at <i>jantri</i> rates Premium if levied on consideration amount	Loss of revenue
1	Collector, Ahmedabad	52 Between November 2013 and April 2016	Between January 2013 and February 2015	165 to 904 days	14.62 44.40	5.85 17.76	11.91
2	Collector, Bharuch	3 Between January 2014 and April 2014	March 2014	23 to 56 days	1.68 1.94	0.66 0.79	0.13
3	Collector, Mehsana	1 October 2012	June 2012	113 days	0.99 1.39	0.39 0.55	0.16
4	Collector, Surendranagar	3 September 2014	December 2013	287 to 289 days	0.44 1.46	0.18 0.59	0.41
5	Collector, Vadodara	2 August 2015	May 2014 and January 2016	154 to 463 days	1.46 5.07	0.58 2.03	1.44
6	Sub Registrar : Ahmedabad-11 (Aslali) and Bavla, (Ahmedabad)	2 May 2013 and December 2013	October 2013 and March 2014	121 to 155 days	2.94 5.37	1.18 2.15	0.97
		63 cases				Total	15.02

Of the 63 cases, in three cases, in each case, the sale deed was executed within a period of six months subsequent to payment of premium and order of the Collector. In the remaining cases, the sale deeds were executed prior to change of tenure of land and issuance of orders of Collectors.

Audit pointed out this, the Department appreciated the contention of audit and stated (September 2017) that the observations made by audit would be considered appropriately at the time of policy framing and at the time of ASR revision in consultation with Revenue Department, Government of Gujarat.

4.3.6.3 Section 2 (na) of the Gujarat Stamp Act, 1958 (GS Act) defines Market Value as 'the price which a property would have fetched if sold in open market on the date of execution of such instrument'. Section 32A (4) of the GS Act empowers the Sub Registrar to refer instruments to the DC (SDVO) within six years from the date of registration of the instruments for the purpose of satisfying himself as to the correctness of the consideration or of the market value of the property which is the subject matter of such instrument and the duty payable thereon.

During test check of document registered in three SR offices between the year 2013 and 2015, audit found in six registered documents that the property which was the subject matter of the document was purchased and sold on the same day or within a short span of time at two different and inconsistent values. The first document was conveyed with reference to the rates in the ASR to company/ firm/ individuals and the second between the purchaser company/ firm/ individuals to another company/ firm wherein the consideration for sale was exceptionally higher than the rates in the ASR. No change in use of land was involved. This indicates the unrealistic ASR prevailing in the State. Details of the cases are given below:

Table 4.6
Unrealistic ASR prevailing in the State

(₹ in crore)						
Sl. No.	Name of office	Document no. and date of registration	Name of seller	Name of purchaser	Market value as per ASR	Consideration for sale
1	SR: Bavla, (Ahmedabad)	3247 21.10.2013	Shri Sureshbhai Ranchhodhbhai Thakkar	M/s Manibhadra Securities Services Pvt. Ltd.	1.68	2.00
2		3249 21.10.2013	M/s Manibhadra Securities Services Pvt. Ltd.	M/s Varia Engineering Works Pvt. Ltd.	1.68	18.00
3	SR: Ahmedabad-9 (Bopal)	486 24.01.2014	The Sakar Co-operative Housing Society Ltd.	M/s Nikshal Properties Pvt. Ltd.	7.38	8.50
4		526 to 531 28.01.2014	M/s Nikshal Properties Pvt. Ltd.	M/s Ardor Overseas Pvt. Ltd.	7.38	44.35
5	SR: Surat-1 (Athwa)	3786 and 3787 10.03.2015	M/s Shah and Sanghvi Developers	Ms Nayanaben Subhodhbhai Sanghvi and others	0.67	1.36
6		10783 01.07.2015	Ms. Nayanaben Subhodhbhai Sanghvi	The Surat People's Co-operative Bank Ltd.	0.67	4.38

With the registration of the document mentioned at Sl. No. 2, 4 and 6 above, the undervaluation of the property registered vide documents mentioned at Sl. No.1, 3 and 5, became obvious. However, the Department neither evolved any mechanism to detect such irregularities nor the SRs referred these documents to DC (SDVO) under Section 32A (4) of the GS Act to recover the deficit stamp duty. Thus, there was loss of revenue to the tune of ₹ 2.69 crore on account of short levy of stamp duty from the documents mentioned at Sl. No.1, 3 and 5 because of unrealistic rates in ASR 2011. Such unrealistic rates could also impact other Government revenues collected based on the ASR.

When this was pointed out, the Department stated (September 2017) that the observation made by audit would be considered appropriately at the time of policy framing as well as at the time of ASR revision in consultation with Revenue Department, Government of Gujarat.

4.3.6.4 ASR and income tax on capital gain

Sale/ Purchase of property is taxable both in the hands of seller and purchaser under Income Tax Act, 1961 (IT Act) with effect from 1 April 2014. The ASR plays an important role in determining capital gains¹¹ (in the hands of the seller) and income from other sources (in the hands of the purchaser). In case of seller¹², if the consideration is below market rates then capital gains would be calculated on deemed sale price based on ASR and the benefit of cost inflation index¹³ (CII) on the cost of the property is given to determine long-term capital gains, depending on the time period the property is held. In case of purchaser¹⁴, if the sale consideration is below market rates then difference would be taxable, if it is more than ₹ 50,000.

CII is an index used to factor in the effect of inflation on the prices of Capital Assets while calculating long term capital gains. For this purpose, every year Central Government (CBDT) notifies CII to adjust for inflation in the value of assets. Between 2011-12 and 2016-17, CII has increased from 785 to 1125. However, the State Government had not revised the ASR after the year 2011 though there had been substantial increase in the property value as indicated by the increase in CII.

Thus, the assessee (seller) could avail the benefit of CII on one hand and also the benefits of non-revision of ASR, resulting in narrowing of capital gain and short-levy of tax. Similarly, the assessee (purchaser) could get the benefit of non-revision of ASR. Looking to this, there should be immediate revision of ASR, so as to secure the revenue of the Central Government as well.

When this was pointed out, the Department stated (September 2017) that the concern of audit for immediate revision of ASR, so as to secure the revenue of the Central Government as well as State Government is noted and the same would be conveyed to competent authority for further deliberation and appropriate decision.

4.3.6.5 Leakage of revenue due to inappropriate application of area and value of land falling under town planning schemes

A number of Town Planning (TP) schemes have been implemented in various districts of the State after implementation of ASR 2011. As a part of TP schemes, certain area of land gets deducted from the original plot area for various development purposes such as roads, gardens, etc., and final plot numbers are assigned to the residual land in place of revenue survey/ block numbers. Simultaneously, the value of the land goes up in view of the developmental prospects of the area. In cases where ASR was finalised prior to the implementation of TP schemes, the rates shown therein were of

¹¹ Any profit or gain that arises from the sale of a “capital asset”. This gain or profit is charged to tax in the year in which the transfer of the capital asset takes place.

¹² As per Section 50C of IT Act

¹³ Indexation is a process by which the cost of acquisition is adjusted against inflationary rise in the value of asset.

¹⁴ As per Section 56 (2) (vii) of IT Act effective from 1 April 2014

revenue/ block numbers (original plots) and not the final plot numbers. Government neither took any steps to revise the ASR post 2011 nor had issued any clarifications/ instructions to levy stamp duty as well as premium on the original plot area in such cases. This resulted in assessing authorities levying ASR 2011 rates on final plot. Non-revision of ASR impacted the revenue generation and created ambiguity regarding the basis of calculating market value in areas where such schemes had been implemented. A few are illustrated as follows:

Effect of non-revision of ASR on premium

During scrutiny of records pertaining to levy of premium for conversion of new and restricted tenure land into old tenure for non-agricultural purposes, audit noticed in eight cases finalised in the office of the Pr. Secretary, Revenue Department and 32 cases finalised by two Collector offices¹⁵ during the period 2014-16 that the new tenure land was falling under TP schemes implemented after the issue of ASR 2011.

In these 40 cases, the total area of a piece of land (original plot) before implementation of TP scheme was 9,53,875 sq. mtr. The total aggregate area of the individual plots allotted (allotted plots) after the implementation of plots under TP scheme was 5,69,880 sq. mtr. The Department should have revised the per plot rate after TP as the TP scheme would enhance the value of the plot and premium should have been levied accordingly. Instead per plot rate was retained as hitherto i.e. before the TP scheme was implemented.

As per the existing rates, the premium on the original plot area measuring 9,53,875 sq. mtr. valued at ₹ 410.34 crore amounted to ₹ 164.13 crore while the premium collected on the individual plot areas measuring 5,69,880 sq. mtr. valued at ₹ 250.59 crore was ₹ 100.24 crore. This resulted in revenue loss of ₹ 63.90 crore.

Effect of non-revision of ASR on stamp duty

Recitals of 29 conveyance deeds registered in seven SR offices¹⁶ revealed that the land conveyed were included in TP scheme and were allotted final plot numbers by the development authorities after deducting certain portion of the land. The SR while computing the market value of the property considered the final plot area and applied rates applicable for survey/ block numbers as per ASR 2011 to work out the market value of the property. The Department instead of ascertaining the market value of these final plot areas applied the rates of survey/ block numbers of original plot available in the ASR 2011 effective from 18 April 2011 for ascertaining the stamp duty payable on the final plot areas. Had the Government decided to apply rates of survey/block numbers to levy stamp duty of ₹ 10.03 crore on the original plot area instead of ₹ 6.60 crore collected on the final plot area in these cases, it could have avoided revenue loss to the extent of ₹ 3.43 crore.

¹⁵ Ahmedabad and Surat

¹⁶ Ahmedabad-9, 11 (Bopal, Aslali), Gandhinagar, Surat-2, 8 (Udhna, Rander), Vadodara-4, 5 (Gorva, Bapod)

The above paragraphs reveal the loss of opportunity to generate revenue due to non-evaluation of market scenario and non-revision of ASR. It is indicative of the necessity of yearly revision of ASR.

When this was pointed out, the Department agreed with the audit contention and stated (September 2017) that yearly revision of ASR will be followed in the future as far as practically possible with reference to administrative convenience as well as exigencies due to various reasons and factors at the relevant point of time in consultation with State Government.

Government may strictly adhere to its policy of yearly revision of ASR so as to plug the leakage of revenue of State and Central Government.

4.3.7 Deficiencies in the survey process

The Department had prescribed forms for conducting surveys for ascertaining the market value of properties for the ASR 2011. The formats of survey form and check form were designed to mention 'Value Zone' wise rates for different type of properties in urban areas such as Municipal Corporation, Urban Development Authority Areas as well as *Nagarpalikas*. 'Grid Zone' rates were prescribed for villages of rural areas. Each survey official was required to fill the rates of a particular value/grid zone through general enquiry from individuals of the area. It was instructed to the survey officials during the training that where the rates of a particular usage of land is not available, the column in the survey/ check forms shall be kept blank. Further, the surveying officials were required to prepare "*panchkayas*¹⁷" with the signatures and details of the persons who have given the information of rates.

The details of the survey/ check/ re-survey forms produced and verified by audit in the selected 12 DC (SDVO) offices are given below:

Table 4.7
Deficiencies in the survey process

Sl. No.	Name of Office	Number of forms produced			Number of forms verified in audit		
		Survey	Check	Re-survey	Survey	Check	Re-survey
1	Dy. Collector (SDVO), Ahmedabad I	436	406	-	123	103	-
2	Dy. Collector (SDVO), Ahmedabad II	704	491	-	212	88	-
3	Dy. Collector (SDVO) Godhra	297	-	-	297	-	-
4	Dy. Collector (SDVO), Jamnagar	779	174	-	779	174	-
5	Dy. Collector (SDVO), Mehsana	5,734	1798	-	1070	155	-
6	Dy. Collector (SDVO), Patan	4,551	3,861	110	261	246	110

¹⁷ Report of inquest or enquiry

Sl. No.	Name of Office	Number of forms produced			Number of forms verified in audit		
		Survey	Check	Re-survey	Survey	Check	Re-survey
7	Dy. Collector (SDVO), Surat II	9,614	108	-	295	108	-
8	Dy. Collector (SDVO), Surendranagar	2,280	547	-	856	330	-
9	Dy. Collector (SDVO), Rajkot I	808	602	-	200	200	-
10	Dy. Collector (SDVO), Rajkot II	8,171	2,671	-	1977	370	-
11	Dy. Collector (SDVO), Vadodara I	432	665	-	145	172	-
12	Dy. Collector (SDVO), Vadodara II	4,804	59	-	271	59	-
Total		38,610	11,382	110	6,486	2,005	110

4.3.7.1 Deficiencies in survey/check forms

The deficiencies noticed in survey/ check forms are mentioned in the following paragraphs:

- The rates filled for various purpose of usage of land in the survey forms were collected through general enquiry from two individuals. Further, though the sales data of registered documents was available with the Department in *gARVI* system (computerised system for registration of documents), no cross verification of the sale deeds executed in the vicinity was carried out to ascertain the rates of land at which it was registered. Thus, no trend analysis to that extent was performed before approving the survey work.

When this was pointed out, the Department stated (September 2017) that in *Jantri* 2011, market price for property shown in Survey Form/ Verification Form is based on local inquiries depending on which data entry was made. No instructions were given for the specific cross verification at the relevant point of time. However, due care will be taken up at the time of the survey work for next revision of *Jantri*.

- The value zone survey/ check forms and the ASR/ revised ASR 2011 for urban areas did not differentiate between residential purpose and commercial purpose land rates. It only provided for mentioning a single rate for open plots which could be applied for both residential and commercial purpose, but the grid zone survey/ check forms and ASR for rural areas did have separate rates for residential and commercial purpose lands. Due to absence of separate rates of residential and commercial lands, the open plot rates mentioned in ASR/ Revised ASR 2011 were applied for calculating the market value of properties for both residential and commercial purposes for levy of premium, stamp duty, registration fees, etc. in urban areas. This

resulted in undervaluation of commercial properties in the urban areas and subsequent short levy of various Government revenues.

When this was pointed out, the Department replied (September 2017) that the suggestion will be taken into consideration and will be proposed to the Government in the next revision of *Jantri*. Further, the Department added that in the next *Jantri* revision, the new survey form and check form will be suggested in the proposal to be submitted to the Government for adding the new category *viz.* open land for residential and commercial purpose in the *Jantri*.

- No zoning identity¹⁸ like agricultural/ non-agricultural/ other property and FSI¹⁹ applicable for the area was ascertained and recorded in the survey/ check forms. As such, the principles mentioned in Rule 8 of the Gujarat Stamp (Determination of Market Value of Property) Rules, 1984 relating to zone identity and FSI were not considered while fixing the parameters for determining the rates in ASR.

When this was pointed out, the Department replied (September 2017) that in view of the upcoming *Jantri* revision, the survey will be carried out keeping in mind the appropriate zoning and FSI as well as cross-verification of the same will also be done after devising appropriate mechanism for making it meaningful.

4.3.7.2 Non production of records

The following records and information were not furnished in any of the DC (SDVO) offices and the SS office selected for audit scrutiny:

- (i) The Department instructed during training of survey officials that the checking team was required to check at least 20 *per cent* and 50 *per cent* of the survey results in respect of rural and urban areas, respectively.

During test check of survey records of 12 DC (SDVO) in the nine districts, in one district²⁰ no check forms were made available to audit for scrutiny. In other eight districts²¹ though check forms were made available, no records or statistics regarding the check of survey results were maintained so as to ascertain whether the prescribed percentage of check was accomplished.

- (ii) During test check of survey records in these 12 DC (SDVO) offices, audit noticed in most of the survey/ check forms that the rates applicable for lands for various uses were not provided therein. This was due to the instructions given to the surveying officials that no rates for land for a

¹⁸ Legislative process that divides privately owned urban areas into different zones (such as residential, commercial, industrial) according to the specified land use. Each zone is regulated as to the density, location, size and type of buildings permitted therein.

¹⁹ Floor Space Index (FSI) or Floor Area Ratio (FAR) is the ratio of a building's total floor area (gross floor area) to the size of the piece of land upon which it is built. The terms also refer to limits imposed on such a ratio. Higher allowable FSI yields higher land value.

²⁰ Godhra

²¹ Ahmedabad, Jamnagar, Mehsana, Patan, Rajkot, Surat, Surendranagar and Vadodara

particular use shall be provided, where the data of land for that particular use was not available during survey.

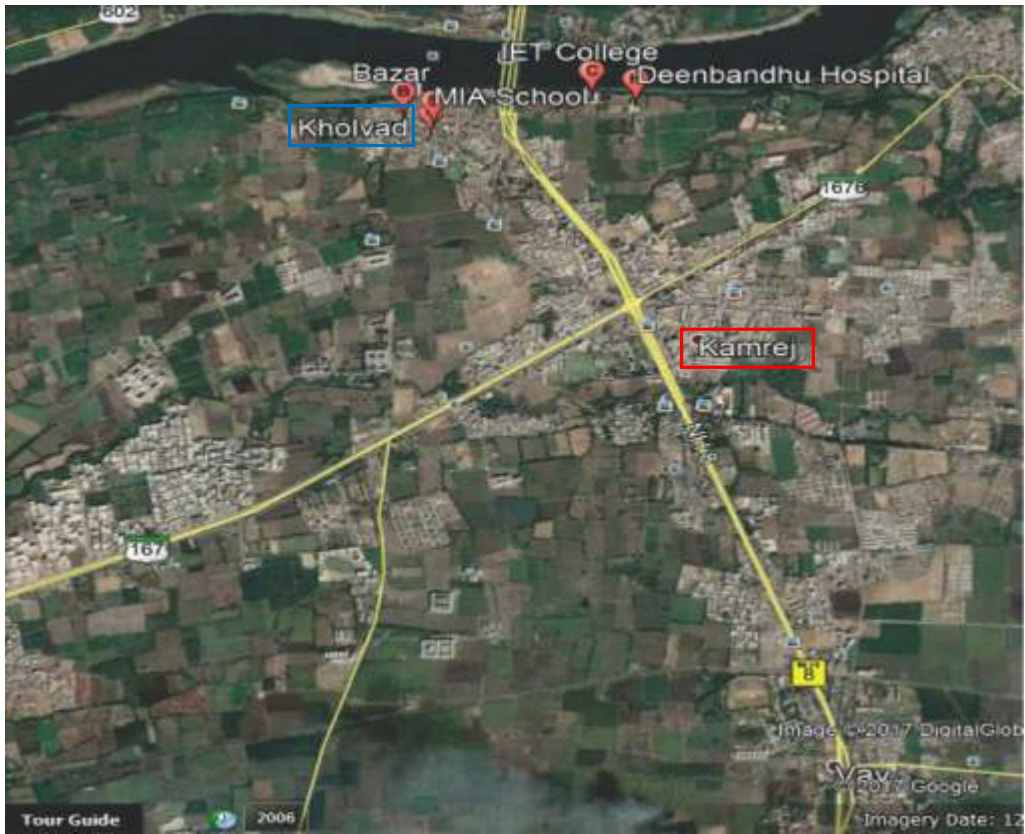
Audit noticed that the Revised ASR 2011 effective from 18 April 2011, however, reflected the rates of those lands for whose particulars were left blank in the survey/ check forms. The Department did not furnish the records and data based on which these rates were entered in the ASR 2011. Therefore, audit could not ascertain the accuracy of these rates.

4.3.7.3 Incomplete maps used in survey activities

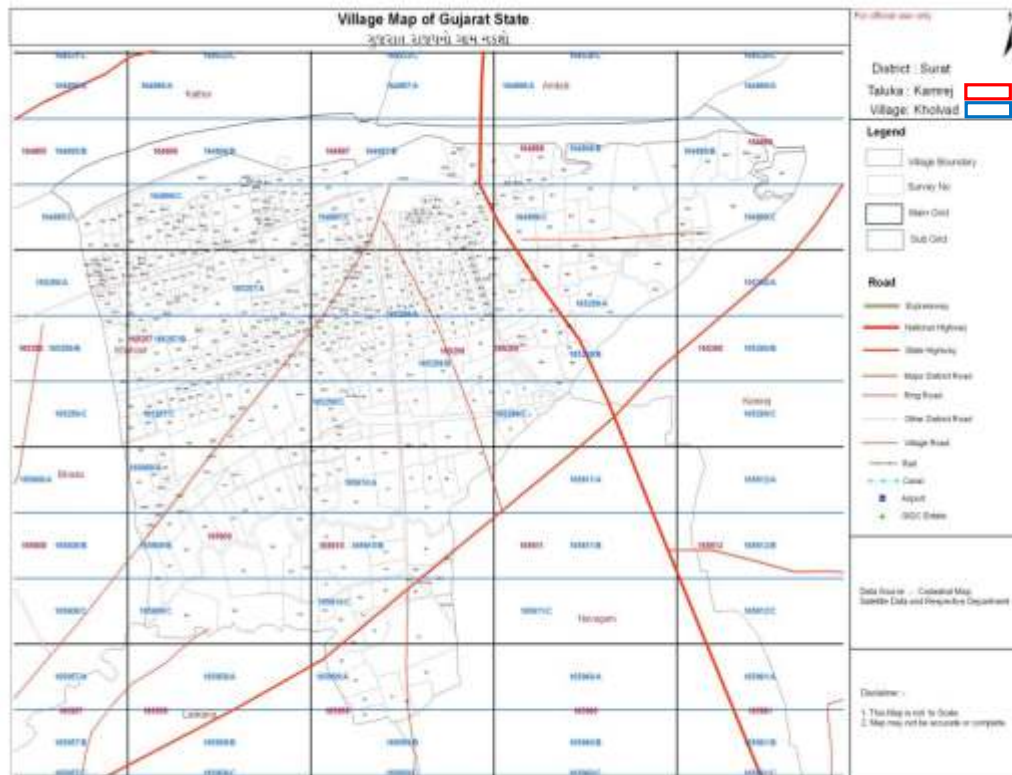
In rural areas, every sq. km. grid was divided into three parts in the cadastral²² map by BISAG and was surveyed by different officials. It was intended to compare the survey prices of these sub-grids to have a holistic view of the prices in each grid zone. The maps had the markings of Express Highway, State/ National Highways, Main District Roads, Other District Roads, canals, airport and GIDC. However, the map did not have the markings of other areas of importance/ landmarks such as agricultural lands, non-agricultural properties including lands for mining purposes, forest lands, coastal areas, health centres, industrial lands, educational institutions, tribal areas, etc. These are the important factors for ascertaining the market value of land in each village/ grid. Thus, it was difficult for a person unfamiliar with the place to locate and carry out the survey unless areas of importance/ landmarks in each grid were properly marked in the map.

In an illustrative case, the Google map of the village Kholvad, *Taluka* Kamrej, District Surat of the year 2010-11 (Map A) and the map of village Kholvad used by the Department for survey (Map B) shown below revealed that though the village had hospital, schools, college, *bazaar*, etc., these landmarks were not highlighted in the map used by the Department for survey. In revised ASR 2011, residential, commercial and industrial lands of most of the survey numbers in the village have been valued at the same rate though they fall in close proximity to or away from National Highway/Main District Road, College/ School, etc. Thus, utilisation of incomplete maps for survey activities did not yield the desired results. A comparison of two maps is given below:

²² A cadastral map is a map defining land ownership. The cadastral map consists of cadastral units, each of which represents a single registered plot of land.



(MAP A)



(MAP B)

The computerisation of cadastral mapping and GIS based system development of all the villages were carried out in 2007 by BISAG under the project “Computerisation of cadastral mapping and Geographic Information System (GIS) based system development for Gujarat State” jointly sponsored by the Department of Space, Government of India and the Government of Gujarat. However, the Department did not initiate any steps for getting the GIS aided maps with relevant information of important landmarks as mentioned above for the survey conducted in 2011 to ascertain the true market value of the land.

When this was pointed out, the Department stated (September 2017) that the survey work was conducted in a very short time period. BISAG and our own machinery might not have been fully prepared to include such important areas and landmarks in the survey maps. However, survey team was comprised of the local personnel familiar with the geographical area and location of the important landmarks for determining the market price of the properties with reference to such landmarks. Further, the Department added that in the recent meeting with the BISAG technical teams, the matter was deliberated at length and concerns of the Audit were appraised to them. It was decided that the same will be included/ reflected in the map in the future survey and ASR preparation as far as possible.

The Government while accepting the audit observation stated that all efforts would be taken to formulate a sound and scientific valuation process to estimate property value with specific streamlined procedures using sales data comparison, trend analysis and GIS enabled maps having all the factors necessary for ascertaining true market value of the property.

4.3.7.4 Unreliable survey data

(i) During test check of survey records in the offices of the 12 DC (SDVO) of nine districts, audit found blank survey forms i.e., no rates for any purpose of use was recorded in the forms but had signature of witnesses and/ or surveying officials. In many survey forms though rates of particular value/ grid zone were mentioned, dated signatures of the surveying officials or the dated signature/ details of the witnesses were missing. The following table shows the number of such unauthenticated survey forms noticed in nine DC (SDVO) offices.

Table 4.8
Unreliable survey data

Name of DC (SDVO) office	Number of blank forms with signatures of witness/survey officials	Number of survey forms filled with rates but signature of surveying official was absent	Number of survey forms filled with rates but signature/details of witnesses were absent	Number of survey forms filled with rates where signatures of surveying official as well as witnesses were absent
DC-II Ahmedabad	-	-	19	2
DC Godhra	-	119	35	-
DC Surendranagar	386	96	-	-
DC Jamnagar	-	-	12	5
DC Patan	15	-	-	-
DC II Surat	-	38	50	-
DC Mehsana	-	542	60	251
DC II Rajkot	49	501	841	57
DC II Vadodara	-	-	-	13
Total	450	1,296	1,017	328

Further, audit noticed that signatures of same witnesses were obtained for the entire village in many instances, though the survey was conducted sub-grid wise by three different officials. Instances of overwriting, use of white ink to correct the figures mentioned in the survey/ check forms without any authentication were also noticed in many areas. This indicated that correctness of the rates mentioned in the respective ASRs was not ensured by the Department.

(ii) In Jamnagar and Rajkot districts, audit noticed in case of 18 areas/ villages that the surveying officials have filled in the grid zone survey forms as well as the value zone survey forms, though the area/ villages were covered in Urban Development Authorities of Jamnagar and Rajkot. These 18 areas/ villages of these two districts are reflected in revised ASR 2011 of Corporation/ Authority as well as rural areas.

Audit cross verified the rates of revised ASR 2011 in rural and urban areas of Jamnagar and Rajkot districts. Audit found that different rates were entered in both the ASRs. During test check, audit found that the rates of various survey numbers were higher in villages than the urban areas of these places. This could result in ambiguity in application of rates for ascertaining the correct market value of the properties. As a matter of fact, the rates of properties in urban areas cannot be lower than the properties of similar nature situated in villages. This also indicates that the survey data was unreliable and incorrect.

When this was pointed out, the Department stated (September 2017) that survey for 2011 was carried out within a short span of time. The work was entrusted to personnel of different Departments and local bodies and they have carried out the survey work as an additional assignment. The Department while appreciating the audit points and indications assured to ensure a foolproof survey work, data collection and record keeping/ maintaining at the time of next ASR revision. Further, the Department also stated that it is planning to collect the data online ensuring all pertinent details along with

authenticity and reliability as well responsibility and accountability will also be ensured through online data entry by the concerned officials.

4.3.7.5 Incorrect fixation of market value

The survey activities were required to be monitored by the District Collector with the help of DC (SDVO) of the respective district. *Talukawise* checking team were constituted which included DC (SDVO), *Mamlatdar*, *Taluka Development Officer*, *Chief Officer (Nagarpalika area)* and *DCM (Corporation/ Authority area)*. It was also instructed to the officials that in case of variation between the rates collected during survey and the rates ascertained during checking was more than 10 *per cent*, then DC (SDVO) shall order for re-survey.

Test check of ASR 2011 and Revised ASR 2011 along with the survey forms, check forms and re-survey forms produced to audit in the 12 DC (SDVO) offices of nine districts revealed the following:

- (i) Audit found irregularities in data entry of rates in ASR 2011 and revised ASR 2011 in all the 12 offices selected for test check. The details are as under:
- In four²³ DC offices of three districts, the rates were entered in ASR 2011 according to the survey forms. The rates were different from the rates mentioned in check forms and were not considered in 185 value zones test checked in audit. Thus, the checking process was not made use in the preparation of ASR and the entire checking process proved useless.
 - Similarly, in Ahmedabad district, in 11 value zones, rates were entered according to survey forms and in 26 value zones, these were based on check forms. Thus, a uniform system was not adopted for working out ASR in 37 value zones of Ahmedabad district.
 - Errors in data entry were noticed in three value zones of Ahmedabad district and Poicha village of Vadodara district. Further, in 62 value zones in urban areas and one village of Ahmedabad district, though the rates in ASR 2011 were entered according to the rates mentioned in the survey/ check forms, but the prevailing revised ASR 2011 displays incorrect rates. The reason for such incorrect display of rates in revised ASR 2011 was not explained to audit.
 - In 37 value zones of four districts²⁴ and 38 villages of eight districts²⁵, the rates entered in ASR 2011 and revised ASR 2011 were neither from the survey forms nor from the check forms of the particular value zone of the urban area or grid zone of the village. The reason for not considering the rates in check forms was not made available to audit. This resulted in incorrect fixation of market value in these places.

²³ DC Jamnagar, DC I Rajkot, DC I and II Vadodara

²⁴ Ahmedabad, Mehsana, Patan and Rajkot

²⁵ Ahmedabad, Godhra, Mehsana, Patan, Rajkot, Surat, Surendranagar and Vadodara

(ii) Besides, out of the total test checked 8,601 value zone/ grid zone survey/ check/ re-survey forms, 152 value zones of 40 urban areas of five districts²⁶ and in 24 grid zones of six villages of three districts²⁷ had more than 10 per cent variation in the rates collected during survey and the rates decided by the authorities during checking. The rates entered in the ASR of these areas were either as per survey forms or as per the check forms which reveals that no re-survey was carried out in these places. Thus, non-adherence to instructions resulted in under/ over valuation of properties in these areas.

Financial impact of the inaccuracies on the collection of revenues

(iii) Short/ excess levy of premium

Audit called for detailed list of cases where premium was levied and collected from the Collector offices of the nine selected districts during the period from August 2011 to July 2016. Seven Collector offices²⁸ furnished the detailed list of cases. Audit found that as per survey forms/ check forms the rate for ASR worked out more than that mentioned in the ASR in 41 cases while in one case, the ASR rate was more than the rates mentioned in the survey form/ check form. The incorrect depiction of rates resulted in short levy of premium of ₹ 4.63 crore in 41 cases and excess levy of premium of ₹ 0.45 lakh in one case.

(iv) Short levy of stamp duty

Audit also collected the Index II²⁹ statement of Jamnagar district. With the help of this statement, audit identified the sale deeds registered in the Sub Registrar offices in Jamnagar during April 2011 to March 2016 in respect of the properties. Audit compared the survey forms/ check forms with the rates mentioned in the ASR and found that rates mentioned in ASR were less than those mentioned in survey forms/ check forms. Audit noticed short levy of stamp duty of ₹ 6.70 lakh in 125 documents registered during the period from April 2011 to March 2016.

When this was pointed out, the Department stated (September 2017) that concern and observations of audit were discussed and deliberated at various level in the Department. Special meeting of DC (SDVO), Stamps Inspectors and Office Superintendent of the district was convened. The Department further added that discrepancies in the present *Jantri* whatsoever would be addressed as far as practically possible and the same would also be strictly followed at the time of next ASR so as to avoid any possible leakage of revenue. All DC (SDVO) who works as Nodal Officers for *Jantri* revision at

²⁶ Ahmedabad, Jamnagar, Mehsana, Rajkot and Vadodara

²⁷ Mehsana, Patan and Surat

²⁸ Ahmedabad, Godhra, Mehsana, Patan, Rajkot, Surat and Vadodara

²⁹ Index II statements are computer generated statements based on documents registered with the Sub Registrar showing *inter alia* the details of parties involved in the transaction, description of the property, type of document, date of presentation and registration of the document, amount of consideration, amount of stamp duty and registration fee levied on the documents.

district level were sensitized on this particular issue in a meeting headed by Additional Superintendent of Stamps on 08 July 2017.

Government may formulate a sound scientific valuation process to estimate property value with specific, streamlined procedures using sales data comparison, trend analysis and GIS aided maps having all the factors necessary for ascertaining true market value of the property.

4.3.8 Visangatata (discrepancies) in ASR

4.3.8.1 As per paragraph (3) of GR dated 31 March 2011, in case of error in printing/ typing/ calculations/ data entry or clerical mistakes or if the details of any particular areas or rates are not included in ASR 2011, the DC (SDVO) shall conduct survey and send the proposals for carrying out the corrections in ASR 2011 to the District Valuation Committee for approval. It was instructed that the activities shall be completed within 15 days and shall be intimated to the SS and the Government. Further, as per paragraph (4) of the GR, in addition to the above, if survey was not conducted in any area during implementation of ASR 2011 from 1 April 2011, the DC (SDVO) shall conduct the re-survey and fix the market value of the properties in that particular area and the same shall be forwarded to the Government for approval after getting the District Valuation Committee's (DVC) consent and the work shall be completed within 30 days.

Audit noticed that the ASR 2011 effective during 1 April 2011 to 17 April 2011 had no mention of any rates for any category of uses in 1,320 value zones out of 11,868 value zones of nine districts test checked in audit. However, the rates were subsequently entered in Revised ASR 2011 which was effective from 18 April 2011. The *Tantrik* (Technical) Branch of Superintendent of Stamps office maintains a register to indicate the name and signature of the official from the districts who have attended the office to carry out the corrections in the ASR. Audit noticed that the register contained 288 entries during the period between 15 July 2011 and 5 October 2012 relating to re-survey and corrections in data entries, but there was nothing on record that the corrections were made after obtaining prior approval of the DVC. Audit called for these case files, but Department did not produce the same.

It was also evident that though the GR dated 31 March 2011 provided for maximum of one month for completion of the entire work including corrections in data entries, etc. The Department took three to seven months to complete the work and did not take approval from DVC as envisaged by the Government. During this period, the rates reflected in ASR 2011 and revised ASR 2011 effective from 18 April 2011 were erroneous or incomplete. Further, audit called for the log sheets relating to modifications carried out in ASR 2011 rates in *gARVI* software to ascertain that only authorised persons logged in and modified the data. However, this information was also not made available to audit.

4.3.8.2 DVC was constituted vide GR of 31 March 2011. It stipulated that wherever discrepancy in prevailing ASR rates were noticed such as the rates were either very high or very low, the power to fix the correct rates, after due diligence, was vested with DVC³⁰ (constituted vide GR dated 31 March 2011). The GR further prescribed that the rates so decided by the DVC would require approval of the SS.

The proposals received for correction/ revisions in ASR 2011 rates, rejected/ approved by the Department and pending for decision in the SS office were called for in audit. The office did not produce the list of proposals received, approved and pending for decision but produced 40 files in this category of cases. Audit noticed that the proposals in these cases were received by the Department during 2012 to 2015. However, there was delay ranging between four to 30 months in finalizing the value by DVC and SS in 12 cases.

In two cases, audit noticed that the corrections proposed by DVC were approved by SS in 32 survey number of one village³¹ and one value zone³² of an urban area in March and October 2013, respectively. However, the Department did not intimate the revisions to NIC for carrying out online modifications in the revised ASR 2011. This resulted in undervaluation/ overvaluation of ASR rates in these places during the period from March/October 2013 to till the date of audit (March 2017) (**Annexure A**).

When this was pointed out, the Department stated (September 2017) that regarding *visangatata* in ASR, time limit is prescribed only for submission of proposal by DVC to the SS whenever any matter is referred to DVC. As such resolution under the question does not stipulate any date or deadline for raising the concern about or against any discrepancy found later on in the *Jantri*. The question of anomaly found out at any time can be resolved only when the issue is brought to the notice of the Department by the applicants. There was no any deadline for that matter. Regarding the two cases pointed out in audit, the Department stated that these were referred to NIC on 21 July 2017 for displaying amended rates in ASR 2011. The Department's contention that the time limit is prescribed only for submission of proposal by DVC to SS is not correct as the GR dated 31 March 2011 categorically mentioned the time limit to complete the entire process of corrections in ASR 2011.

4.3.9 Inconsistencies or anomalies in the rates adopted in ASR

Superintendent of Stamps (SS) vide circular dated 21 March 2011 had instructed the DC (SDVO) offices to verify the ASR data and find out the mismatch/ discrepancies, if any, and take steps for their rectification. A few possible discrepancies which needed to be rectified were also cited in the circular such as non-irrigation land rates higher than irrigation land rates; rates of interior areas higher than the areas adjacent to National/ State highways; value of residential plots higher than commercial plots etc. It was instructed in the circular that a committee may be formed to verify the rates. Further, a

³⁰ GR dated 1 October 2012

³¹ Samdhiyala-2 village of Botad *taluka*, Bhavnagar district

³² Singanpor TPS 26, Surat City *taluka* and district Surat

report regarding the verification of all these aspects and a certificate of completion of work was also required to be furnished by the DC (SDVO) office to the SS.

Test check of ASR 2011 and Revised ASR 2011 revealed that the mismatch/ discrepancy mentioned in the circular still prevails (April 2017) in the revised ASR 2011. In addition to these, audit found many incorrect/ unrealistic rates, such as final plot numbers/ city survey numbers are shown as survey numbers, rates of agriculture land were at par or higher than the rates of open plot/ office/ shops, some of the survey/ final plot numbers of one value zone gets repeated under another value zone of the same area, etc. This points out the fact that no analysis was carried out to rectify the discrepancies. These are mentioned in the **Annexure B**.

When this was pointed out, the Department stated (September 2017) that due care will be taken and checks and balances would be applied in the next ASR revision for reasonable assurance of correctness of the market value of the property.

4.3.9.1 Clause 2 (a) of revised ASR 2011 guidelines prescribed by the Department provides the rates to be adopted for calculating the value of different types of constructed properties as mentioned below:

Table 4.9
Rates for calculating the value of constructed properties

Rate of different types of structures for the year 2011	Rate in ₹ per sq. mtr.	
	Urban area	Rural area
RCC frame structure	9,900	9,100
Load bearing structure	8,600	7,700
Semi Pukka structure	6,300	5,900
Industrial RCC sheds	11,500	11,200
Industrial tin sheds	8,500	8,200

(Source: Guidelines of ASR 2011)

To ascertain the market value of a constructed property such as independent house, bungalow, factory, etc., in urban/ rural areas the following value of items had to be added (a) value of construction by applying the rate mentioned under clause 2 (a) of the guidelines attached with the revised ASR 2011 depending upon the type and place of construction and (b) value of the land as per rates specified in the revised ASR 2011 for the survey/ block/ final plot numbers of the value/ grid zone where the land is situated.

For ascertaining the value of flats/ apartments, shops, offices, etc. in a building, situated in urban areas the composite rates of land and construction cost was provided in the ASR itself. The Department vide circular dated 21 March 2011 had categorically instructed that DC (SDVO) shall take steps to rectify the composite rates in the ASR 2011 if it was below ₹ 5,000 or ₹ 6,000 per sq. mtr. However, it was not specifically mentioned in which category each of these rates would apply. Further, the Department/Government also did not instruct its officials to maintain these minimum composite rates in the revised ASR 2011.

Audit noticed in the nine selected districts that the composite rates of flats/offices/ shops provided in the revised ASR 2011 were less than ₹ 5,000/ ₹ 6,000 per sq. mtr. in the value zones as given below:

Table 4.10
Value zones with composites rates below ₹ 6,000 per sq. mtr.

Sl. No.	Name of District	Total no. of value zones	No. of value zones where rates are below ₹ 5,000 per sq. mtr.			No. of value zones where rates are in between ₹ 5,001 and ₹ 6,000 per sq. mtr.		
			Flats/ Apartments	Office	Shop	Flats/ Apartments	Office	Shop
1	Ahmedabad	3,336	101	3	0	545	24	0
2	Vadodara	1,079	55	3	0	203	32	4
3	Surat	2,124	13	1	1	32	3	3
4	Rajkot	1,645	285	3	6	257	143	0
5	Jamnagar	1,081	95	0	0	153	44	0
6	Patan	462	1	0	0	136	0	1
7	Surendranagar	736	158	0	0	320	7	0
8	Godhra	388	76	10	0	128	14	12
9	Mehsana	1,017	364	0	0	255	200	0
	Total	11,868	1,148	20	7	2029	467	20

(Source: ASR 2011)

The records produced to audit indicated that the Department had not taken any step to rectify the rates effective from 18 April 2011. Further, the number of incorrect depiction of rates reveals degree of inaccuracy of rates of revised ASR 2011.

As no composite rates were provided in revised ASR 2011 for rural areas, a similar property in the rural area would cost more than the urban area as the value of a constructed property in rural area is required to be calculated by applying rate of ₹ 9,100 per sq. mtr. for the area of construction besides the value of area of land conveyed. **Case study 1** demonstrates this anomaly.

Case Study 1

A new flat/ apartment measuring 100 sq. mtr. situated at value zone number 12/213/2/A of Bodakdev Town Planning Scheme 213 of Ahmedabad district will be valued as under:

Composite rate for flat/ apartment as per revised ASR 2011 = ₹ 6,000 per sq. mtr. x 100 sq. mtr. = ₹ 6,00,000

However, a new flat/ apartment measuring 100 sq. mtr. situated at rural area of Bagodara village, Bavla taluka of Ahmedabad district would be valued as under:

Landrate as per revised ASR 2011 = ₹ 950 per sq. mtr. (the lowest rate in the village) x 100 sq. mtr. = ₹ 95,000

Construction value = ₹ 9,100 per sq. mtr. x 100 sq. mtr. = ₹ 9,10,000

Total cost of residential property = ₹ 10,05,000

It can be seen that a flat/apartment situated at rural area would be valued at ₹ 10 lakh while the same area of flat/ apartment situated at urban locality would be valued at ₹ 6 lakh.

This shows the extent of anomaly in the composite rates provided in ASR 2011.

4.3.9.2 Audit noticed in 9,172 value zones that the composite rates of flats/ offices/ shops provided in the revised ASR 2011 in the nine selected districts were in between ₹ 6,001 per sq. mtr. and ₹ 9,900 per sq. mtr. which was less than the construction cost for RCC frame structure mentioned in the guidelines for urban areas (Paragraph 4.3.9.1). The details of the number of value zones having rates in between ₹ 6,001 per sq. mtr. and ₹ 9,900 per sq. mtr. is given below:

Table 4.11
Value zones with composites rates above ₹ 6,000 per sq. mtr.

Sl. No.	Name of District	Total no. of value zones	No. of value zones where rates are between ₹ 6,001 and ₹ 9,900 per sq.mtr.		
			Flats / Apartments	Office	Shop
1	Ahmedabad	3,336	1,337	547	4
2	Vadodara	1,079	655	467	204
3	Surat	2,124	259	176	69
4	Rajkot	1,645	557	512	379
5	Jamnagar	1,081	532	461	255
6	Patan	462	340	310	28
7	Surendranagar	736	239	538	194
8	Godhra	388	50	117	52
9	Mehsana	1,017	285	597	8
	Total	11,868	4,254	3,725	1,193

(Source: ASR 2011)

From the above, it could be seen that though the composite rates were required to include both value of land and construction cost, but in these value zones, the composite value was even less than ₹ 9,900 per sq. mtr. prescribed for construction cost in urban areas. Thus, it is implicit that the composite rates displayed in the revised ASR 2011 were not accurate.

4.3.9.3 In the test checked nine districts, audit found in 70 value zones out of 11,868 value zones that the rate of open plot land was significantly lower than the composite rates of flats/ apartments. Accordingly, in these value zones, a bungalow would cost less than a flat which is unrealistic. **Case study 2** illustrates this issue.

Case Study 2

A newly constructed 100 sq. mtr. bungalow as well as a 100 sq. mtr. flat in the value zone W-14/2 of Jamnagar (1) JMC would be valued as under:

Value of bungalow :

Open plot rate as per ASR 2011 = ₹ 18,500 per sq. mtr. x 100 sq. mtr. = ₹ 18,50,000

Construction value = ₹ 9,900 per sq. mtr. x 100 sq. mtr. = ₹ 9,90,000

Total cost of bungalow (including land and construction) = ₹ 28,40,000

Value of flat :

Composite rate (including cost of land and construction) = ₹ 43,500 per sq. mtr. x 100 sq. mtr. = ₹ 43,50,000

It can be seen from the above that a 100 sq. mtr. bungalow would cost only 65.28 per cent of the cost of a flat in this value zone, which is unrealistic.

When this was pointed out, the Department stated (September 2017) that in view of the huge geographical area/ villages/ cities in the State and the huge number of zones/ grids involved, there might be some defects and discrepancy in the ASR rates. However, adequate care would be taken in the next revision of ASR and well-structured meaningful, effective cross checking and validation would be ensured for the data collected.

Government should ascertain that the rates prescribed in the ASR are in line with the market scenario and composite and open plot rates may be prescribed with due diligence for different purpose/ uses of the property.

4.3.9.4 Government of Gujarat, Revenue Department vide Resolution dated 03 December 2011 instructed that in the case of village areas where non-agricultural (NA) rates were not mentioned in the Revised ASR 2011 for any of the survey/ block number falling under the particular village, the NA land rates (Circular Rate) meant for residential, industrial and commercial shall be worked out as per the following method:

Table 4.12
Rates for determination of market value of NA land

Sl. No.	Purpose	Rate for determination of market value
1	Residential	Two times of rates mentioned for agricultural land in revised ASR 2011
2	Industrial	Three times of rates mentioned for agricultural land in revised ASR 2011
3	Commercial	Four times of rates mentioned for agricultural land in revised ASR 2011

(Source: GR of 3 December 2011)

The basis for devising the above formula was not made available to audit. In order to ascertain the reasonability of fixation of the rates in light of the above instruction, audit compared the revised ASR 2011 rates of agricultural and NA lands in 332 villages of Ahmedabad district with the NA rates that would be obtained by applying the above stated instructions to the same villages. Audit found that the methodology of valuation prescribed by Government as above was not realistic as only in seven villages, rates provided in the revised ASR 2011 matched with the rates arrived at by adoption of above method of valuation for residential, industrial and commercial lands, respectively. The details of analysis are shown in the following table:

Table 4.13
Analysis of methodology of valuation prescribed by Government

Purpose	Number of villages with <i>percentage</i> variation ranging						Matching with ASR value using the above method	No rates mentioned in prevailing ASR for the purpose	Total villages
	Lower than the prevailing ASR value determined using the above method			Higher than the prevailing ASR value determined using the above method					
	-1 to -50	-51 to -100	More than -100	Upto 50	50 to 100	Above 100			
Residential	121	32	0	36	27	107	3	6	332
Industrial	94	52	0	24	21	52	2	87	332
Commercial	85	90	0	26	26	38	2	65	332

(Source: ASR 2011)

From the above, it could be seen that the methodology adopted for working out the NA rates was arbitrary. The Department should have re-surveyed and made proper analysis to ascertain the true market value of the immovable properties in these villages.

Non adherence to the instructions

As per the circular dated 30 April 2011 issued by the SS, where the rates for a piece of NA land was not provided in the Revised ASR, the Department was required to apply the NA rates of the adjacent piece of land which fell within the same grid/ value zone of the ASR.

Scrutiny of the records in four Collector offices revealed that in 10 cases in that the rate of NA land was not mentioned in the Revised ASR, however the rates of the adjacent pieces of land were mentioned in the Revised ASR. Thus as per the circular dated 30 April 2011 issued by the SS, the Department was required to apply the NA rates of the adjacent piece of land which fell within the same grid/ value zone.

The Department incorrectly applied the rate mentioned in the GR dated 03 December 2011 for ascertaining the market value of the land. This has resulted in undervaluation and short levy of premium of ₹ 67.64 lakh as follows:

Table 4.14
Non adherence to the instructions

(₹ in lakh)					
Sl. No.	Name of office	No. of cases Period of Collector's Order	Premium leviable	Premium levied	Short levy of premium
1	Collector, Ahmedabad	<u>1</u> June 2016	57.38	51.64	5.74
2	Collector, Bhavnagar	<u>5</u> November 2012 and December 2013	83.43	71.51	11.92
3	Collector, Navsari	<u>3</u> December 2015	124.53	113.28	11.25
4	Collector, Surat	<u>1</u> March 2015	61.97	23.24	38.73
Total					67.64

When this was pointed out, the Department stated (September 2017) that the Resolution dated 03 December 2011 was issued by the Government for fixing market price for different non-agricultural purposes as such rates were applied uniformly. The reply is not correct as the GR was applicable only in those areas where NA rates were not provided for any survey number but in these cases the rates of the adjacent pieces of the lands were available and should have been applied.

Government may design a robust methodology to avert the inconsistencies or anomalies such as abnormal agriculture/ NA land rates, repetition of survey/ block numbers in another value zone of the same area, etc.

4.3.10 Revised ASR 2011 in Revenue Department's website – not updated

There are three websites where prevailing revised ASR Rates 2011 are displayed. These are <https://revenuedepartment.gujarat.gov.in>, the website of Revenue Department of Government of Gujarat, <https://newjantri.guj.nic.in> and <https://garvi.gujarat.gov.in/WebForm1.aspx>, the websites of Superintendent of Stamps and Inspector General of Registration.

Audit noticed that the Department had carried out corrections/ revisions of rates in many value/ grid zones in many parts of the State due to various reasons since the uploading of revised ASR 2011. After carrying out the corrections/ revisions, the updated version of revised ASR 2011 was uploaded only at <https://newjantri.guj.nic.in> and <https://garvi.gujarat.gov.in/WebForm1.aspx> by NIC. While, the revised ASR 2011 available at Revenue Department's website was not updated simultaneously and displays the un-updated rates. Further, the date and reference of revisions/ corrections of rates were also not mentioned in the updated revised ASR 2011 uploaded at <https://newjantri.guj.nic.in> and <https://garvi.gujarat.gov.in/WebForm1.aspx>. This makes it difficult to ascertain which website shows the correct rates of revised ASR 2011 and also create ambiguity in application of rates for levy of various Government revenue like stamp duty, premium for conversion of new tenure land, etc., by the Revenue Authorities concerned.

When this was pointed out, the Department replied (September 2017) that Principal Secretary (Revenue Department) had instructed NIC personnel to look into the matter and resolve the issue. Further, the Department also stated that it was decided that there may not be different set of *Jantri* on different platforms but the *Jantri* uploaded by NIC would be linked with other Departments or stake holders' websites.

4.3.11 Lack of adherence to instructions in guidelines of ASR led to undervaluation of properties and short levy of stamp duty

Lack of adherence to the instructions for ascertaining the correct market value of properties was noticed in several instances during the test check of registered documents in SR offices which resulted in incorrect determination of market value of properties in 28 documents and short levy of stamp duty of ₹ 1.75 crore as mentioned in the following table:

Table 4.15
Undervaluation of properties

(₹ in lakh)

Sl. No.	Name of office	Number of documents	Stamp duty leviable	Short levy of stamp duty
		Period of registration of documents	Stamp duty levied	
1	SR: Surat-1 (Athwa)	9	70.26	16.51
		Between January 2015 and November 2015	53.75	

As per the guidelines of ASR effective from 18 April 2011, for calculating the value of the built-up area, the carpet area mentioned in the document is required to be multiplied by 1.2 times. For calculating the value of terrace above individual bungalows and flats/ offices/ shops, 40 per cent of the rate mentioned against the concerned value zones should be applied. For ascertaining the value of the covered car parking space for commercial purpose, 20 per cent of the rate mentioned against the value zone should be applied.

Observation: Recitals of above nine documents revealed that in four cases rights of terrace and parking space were passed on to the purchasers by the sellers at the time of sale of constructed properties, but the SR did not consider the terrace rights and parking space for calculating the value of the property conveyed by the sellers. In the remaining five cases, instead of multiplying the carpet area by 1.2 times for ascertaining the built-up area of the property, SR calculated stamp duty on the carpet area of the property. This resulted in short levy of stamp duty of ₹ 16.51 lakh.

2	SR: Vadodara-4 (Gorva), Ahmedabad-6 (Naroda)	9	94.60	12.38
		Between January 2014 and December 2014	82.22	

As per guidelines of ASR effective from 18 April 2011, when the conveyed shop is situated in a Mall, Arcade or Multiplex, no rebate for floor or frontage should be given while calculating the market value of the property for the purpose of levy of stamp duty.

Observation: Mall and arcade are collection of shops with interconnected walkways. Due to not mentioning mall, arcade in the building's name, SR had misclassified the properties to be ordinary commercial property and applied rebate for floor and frontage while ascertaining the market value of the property conveyed. Recitals of documents/ brochures of the properties in the above cases revealed that conveyed property were shops/ offices situated in Arcade/ Mall. The SR while calculating the market value of the property had incorrectly provided rebate, not applicable in these cases. The properties were required to be registered for a market value of ₹ 1,930.58 lakh, but were registered for a market value/consideration of ₹ 1,529.85 lakh resulting in short levy of stamp duty of ₹ 12.38 lakh.

3	SR: Vadodara-5 (Bapod)	1	54.83	10.54
		June 2014	44.29	

Observation: In one case, audit noticed that the number of the final plot was shown in two different value zones of the same area having two different rates. The Sub Registrar had applied the lower rate for working out the market value of the property instead of the higher rate. The property was required to be registered for a market value of ₹ 1,118.91 lakh, but was registered for a market value of ₹ 877.91 lakh resulting in short levy of stamp duty of ₹ 10.54 lakh.

4	SR: Vadodara-5 (Bapod), Ahmedabad-6 (Naroda)	2	85.55	42.08
		July 2015 and December 2015	43.47	

Sl. No.	Name of office	Number of documents	Stamp duty leviable	Short levy of stamp duty
		Period of registration of documents	Stamp duty levied	

ASR of urban areas had different composite rates prescribed for flats/ apartments, offices and shops at flats/ complexes based on the value zones. The composite rates of offices are lower than that of shops and composite rates of flats/ apartments are lower than that of offices and shops. However, the ASR and the guidelines did not define the terms office and shops. Due to which, there has been misclassification of shops as office which results in undervaluation.

Observation: In two conveyance deeds, audit noticed that due to lack of clarity in the ASR and guidelines, the SR had classified the multiplexes as offices instead of shops and stamp duty was levied at a lower value. The properties were required to be registered for a market value of ₹ 1,745.98 lakh but were registered for a market value/ consideration of ₹ 887.00 lakh.

5	SR : Vadodara-4 (Gorva), Surat-1 (Athwa)	3	112.97	46.07
		December 2014 to October 2015	66.90	

As per the ASR guidelines, other than flats/ complexes, the open plot rates should be applied along with rates of construction cost prescribed in the guidelines for ascertaining the value of the constructed property.

Observation: In one document of conveyance, the property conveyed was shop but was considered for residential purpose and lower rates applicable for flats/ apartments was applied for levy of stamp duty. In other two conveyance deed, entire building was sold to the purchasers, but market value was worked out with reference to the composite rate applicable for flats/ apartments instead of calculating the market value by applying open plot rates and rates for construction cost. The composite rate of flats/ apartments was lower than that of open plot rate and rate for construction cost taken together and hence, there was undervaluation and resultant short levy of stamp duty of ₹ 46.07 lakh.

6	SR: Vadodara-4 (Gorva), Gandhinagar	3	64.76	13.93
		January 2013 and March 2015	50.83	

Observation: In one document, SR had considered the rate of value zone number 26/0/1-Wadiwadi instead of the correct rates of value zone number V/V/1/5 for ascertaining the market value of the properties in these documents. Audit noticed this with reference to document number 8149 dated 10 November 2014 in respect of the same property which was registered with SR, Vadodara-1 (City) applying the correct rate. This has resulted in short levy of stamp duty of ₹ 5.82 lakh. In another document, SR had considered the rate of an incorrect value zone which resulted in undervaluation of the property and resultantly there was short levy of stamp duty of ₹ 8.11 lakh.

7	SR: Vadodara-4 (Gorva)	1	503.27	33.77
		June 2015	469.50	

Observation: The land conveyed was included in commercial and public institutional purpose as noticed from the Zone certificate of Vadodara Urban Development Authority, as such it was required to be valued with reference to the rates of open plot. However, the Sub Registrar valued the land considering the rate applicable for industrial purpose. This has resulted in short levy of stamp duty of ₹ 33.77 lakh.

After this was pointed out, the Department replied (September 2017) that all these cases would be reviewed and in case of stamp duty/ registration fees

found recoverable, due procedure for recovery would be initiated at the earliest.

4.3.12 Conclusion

Annual Statement of Rates (ASR) is being taken as the base for determining the market value of properties by State and Central Government Departments for various purposes. There has been an inordinate delay in revising the ASR despite the policy of the Government for yearly revision. Further, the survey conducted for ASR 2011 was neither scientific nor reliable. This impacted the composite and open plot rates in many places of urban areas. The unrealistic rates in ASR resulted in incorrect determination of market value of immovable properties resulting in leakage of revenue.

Monitoring of the Department was weak and the corrections in ASR were not detected and carried out even after a period of five years from its implementation. No periodical evaluation and revision was carried out. A foolproof systemic evaluation process and periodical revision is necessary, so that the market value of properties ascertained are transparent and correct. Lack of clarity and non-adherence to guidelines of ASR resulted in incorrect determination of market value and short levy of stamp duty in registered documents.

4.3.13 Recommendations

Audit recommend that:

- **Government may strictly adhere to its own policy of yearly revision of ASR, so as to plug the leakage of revenue.**
- **Government may formulate a sound scientific valuation process to estimate property value with specific, streamlined procedures using *gARVI* data comparison, trend analysis and GIS aided maps ascertaining true market value of the property.**
- **Government may design a robust methodology to avert the inconsistencies or anomalies such as abnormal agriculture/ NA land rates, repetition of survey/block numbers in another value zone of the same area, etc.**
- **Cases of discrepancies between survey forms and published ASR need to be reviewed and corrected.**

4.4 Short levy of stamp duty due to undervaluation of properties

Section 32 A of the Gujarat Stamp Act, 1958 provides that if the officer registering the instrument believes that the consideration set forth in the document presented for registration is not as per the market value of the property, he shall refer the same to the Deputy Collector (Stamp Duty Valuation Organisation) for determination of the market value of the property. The market value of the property is to be determined as per the Gujarat Stamp (Determination of Market Value of the Property) Rules, 1984 and the orders issued thereunder.

During test check of the documents registered with the four Sub Registrar offices³³ during the year 2011 to 2014, audit noticed³⁴ that the market value of the properties was determined incorrectly in 41 documents, which resulted in short levy of stamp duty of ₹ 4.77 crore as explained below:

4.4.1 Cases where land had been converted from new to old tenure for non-agricultural purposes

As per the guidelines issued for implementation of *jantri* or Annual Statement of Rates (ASR) with effect from 1 April 2011, developed land includes land which can be used for non-agriculture purposes, land wherein development can take place or which is capable of being developed e.g. land converted into non agriculture, land included in development schemes (*Vikas Yojana*)/ Town Planning schemes, land purchased under Section 63 A and 63 AA of the Gujarat Tenancy and Agricultural Lands Act, 1948 (GTAL Act) and land included in Special Economic Zone and Information Technology Parks.

Audit observed in 38 cases (registered between January 2012 and September 2014) of three Sub-Registrar offices³⁵ that new tenure agricultural lands were converted (between April 2010 and September 2014) to old tenure for non-agricultural purposes by orders of the Collector after payment of premium price. But, the Sub-Registrar had adopted *jantri* rates of agricultural lands in place of non-agricultural lands for determination of market value for levy of stamp duty. These documents were required to be registered by adoption of market value of ₹ 208.09 crore instead of ₹ 116.73 crore. This resulted in short levy of stamp duty of ₹ 4.40 crore.

4.4.2 Cases where permission of competent authority had been obtained for sale under Section 63 of GTAL Act, 1948

Audit observed in two cases registered at Sub-Registrar, Surat-8 (Rander) that the Revenue Authorities had granted permission for sale of agricultural land for non-agricultural use under Section 63 of GTAL Act. But, the Sub-Registrar had adopted *jantri* rates of agricultural lands instead of non-agricultural lands for determination of market value for levy of stamp duty. These documents were required to be registered by adoption of market value

³³ SR- Ahmedabad- 13 (Agriculture), 14 (Daskroi), Surat- 8 (Rander) and Sanand

³⁴ between November 2015 and January 2016

³⁵ SR- Ahmedabad-13 (Agriculture), 14 (Daskroi) and Surat- 8 (Rander)

of ₹ 23.47 crore instead of ₹ 18.78 crore. This resulted in short levy of stamp duty of ₹ 23 lakh.

4.4.3 Audit observed in one case of sale of land for residential purpose registered by Sub-Registrar, Sanand that incorrect *jantri* rates were adopted. The Department levied stamp duty of ₹ 8.66 lakh on consideration of ₹ 1.77 crore instead of stamp duty of ₹ 23.19 lakh on market value of ₹ 4.73 crore at *jantri* rates. This resulted in short levy of stamp duty of ₹ 15 lakh.

Audit pointed out the above cases to the Department between November 2015 and October 2016. The Department stated (June 2017) that out of 41 cases, in 33 cases, notices have been issued, in five cases, stamp duty have been correctly levied and three cases, reply is awaited (September 2017).

4.5 Short levy of stamp duty

Section 32 A of the Gujarat Stamp Act, 1958 provides that if the officer registering the instrument believes that the consideration set forth in the document presented for registration is not as per the market value of the property, he shall refer the same to the DC (SDVO) for determination of the market value of the property. The market value of the property is to be determined as per the Gujarat Stamp (Determination of Market Value of the Property) Rules, 1984 and the orders issued thereunder.

During test check of the documents registered with the Sub Registrar office, Bavla, district Ahmedabad during the year 2010 to 2014, audit observed (January 2016) in case of a conveyance deed that after the orders of the High Court of Gujarat dated 29 July 2011, the said document had been accepted for registration on 30 July 2011.

Recitals of the deed indicated that the vendor had made the payments to the vendee after the revision of ASR rates on 31 March 2011. Twenty-two instalments of payment of ₹ 12.94 crore were made between 29 April 2011 to 25 July 2011. The vendee had presented the document on 30 July 2011 showing that the deed was executed on 31 March 2011 and had stamped it at pre-revised rates of ASR 2011.

The Sub-Registrar examined the document and forwarded the document to the DC (SDVO) for correct determination of market value. The High Court of Gujarat vide its order dated 17 August 2011 held that stamp duty should be levied on the market value prevalent on the date of execution in accordance with Section 32 A of the Gujarat Stamps Act, 1958. The DC (SDVO) returned the case to the Sub-Registrar on 20 October 2012 indicating that the document was properly stamped in light of the High Court judgement.

The High Court had desired to levy stamp duty on the market value determined in accordance with Section 32A of the BS Act, 1958 prevalent on the date of execution of the deed. It has nowhere stated that the date of execution of document was 31 March 2011. The recitals of the document

clearly indicate that the document was drafted after 01 April 2011 (in view of the payments made after 01 April 2011).

The document was required to be registered by adoption of market value of ₹ 54.13 crore instead of ₹ 35.45 crore. The DC (SDVO) failed to take cognizance of this fact. This resulted in short levy of stamp duty of ₹ 98 lakh.

Audit pointed out the case to the Department in January 2016. The Department stated (June 2017) that notice has been issued in the case.

4.6 Short levy of stamp duty and registration fees on documents comprising several distinct matters

Under Section 5 of the Gujarat Stamp Act, 1958, any instrument comprising of several distinct matters or distinct transactions shall be chargeable with aggregate amount of duties with which separate instruments would be chargeable under the Act.

During test check of the records of two Sub Registrar offices³⁶ for the year 2014 and 2015, audit noticed³⁷ from the recitals of two documents that it contained more than one distinct matter or transaction which attracted levy of aggregate stamp duty and registration fees. However, the Sub Registrars failed to take cognizance of the recitals of the documents and did not levy the aggregate stamp duty and registration fees chargeable on each such distinct matter. This resulted in short levy of stamp duty and registration fees of ₹ 79.59 lakh as explained below:

4.6.1 In Sub-Registrar office, Ahmedabad-IX (Bopal), audit observed in case of one document registered as conveyance deed that a Housing Society (i.e. seller) had sold land measuring 12,857 sq. mtr. to a Private Limited Company (i.e. purchaser) and members of the Housing Society had signed the document as confirming parties.

Recitals of the document (at page no. 9) revealed that the Housing Society had allotted the plots to the members and the members became owners of the plots by virtue of share certificates issued by the Housing Society to the members. Thus, the document comprises two distinct matters i.e. 1. Conveyance between the Housing Society and the members of Housing Society and 2. Conveyance between the members of the Housing Society and the Company. The Sub Registrar was required to levy aggregate stamp duty on both the transactions. But, the Sub Registrar had not levied stamp duty on deemed conveyance executed between seller and confirming party. This resulted in short levy of stamp duty of ₹ 58.27 lakh.

4.6.2 In Sub-Registrar office, Vadodara-IV (Gorva), audit observed in case of one document registered as conveyance deed that three co-owners (i.e. sellers) of land measuring 11,944 sq. mtr. had transferred the land in favour of a partnership firm (i.e. purchaser). Recitals of the document revealed that one of

³⁶ SR- Ahmedabad-IX (Bopal) and Vadodara-IV (Gorva)

³⁷ in December 2016 and January 2017

the co-owners had relinquished his respective rights in the land measuring 6,569 sq. mtr. in favour of remaining two co-owners and the amount of consideration had also been received by the remaining two co-owners. Thus, the document comprises two distinct matters i.e. (1). Deed of release between one co-owner and remaining two co-owners in respect of proportionate land owned by the one co-owner and (2). Conveyance between the remaining two co-owners and the partnership firm. The Sub Registrar was required to levy aggregate stamp duty on both the transactions. But, the Sub Registrar had not levied stamp duty on deed of release between one co-owner and remaining two co-owners in respect of proportionate land owned by the one co-owner. This resulted in short levy of stamp duty and registration fees of ₹ 21.32 lakh.

Audit pointed out these cases to the Department in December 2016 and January 2017. The Department stated (June 2017) that notices have been issued in these cases.

